

REMARKS

Reconsideration and allowance are respectfully requested. Claims 1-4, 6, 9, 27 and 33-37 are pending. The amendments are fully supported by the original disclosure and, thus, no new matter is added by their entry. Upon allowance of the elected product claim, rejoinder of the withdrawn method claims using the elected product is requested.

As regards the Examiner's missing requirement to be accorded the benefit of the foreign priority date, Applicants submit a verified English translation of the priority document (see attached). Applicants request the Examiner's acknowledgement of its receipt and a statement that the present claims are entitled to the foreign priority date.

35 U.S.C. 112 – Written Description

Claims 3 and 33-36 were rejected under Section 112, first paragraph, as allegedly "failing to comply with the written description requirement." Applicants traverse because amendment of the claims to recite "human Toll-like receptor 3" moots this rejection.

Withdrawal of the written description rejection is requested because the specification conveys to a person skilled in the art that Applicants were in possession of the claimed invention as of the filing date.

35 U.S.C. 112 – Definiteness

Claims 3 and 33-36 were rejected under Section 112, second paragraph, as being allegedly "indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention." Applicants traverse because amendment of the claims to adopt the Examiner's suggestions moots this rejection.

Applicants request withdrawal of the Section 112, second paragraph, rejection because the pending claims are clear and definite.

35 U.S.C. 103 – Nonobviousness

Claim 3 was rejected under Section 103(a) as allegedly obvious over Matsuda et al. (WO 02/053737) in view of Imler et al. (Nat. Immunol. 4:105-106, 2003). Applicants

traverse because Imler is not prior art as evidenced by the attached verified translation of the Japanese priority document and the entitlement of the claim to a priority date of at least November 29, 2002.

Withdrawal of the Section 103 rejection is requested because the claim would not have been obvious to one of ordinary skill in the art when this invention was made.

Conclusion

Having fully responded to the pending Office Action, Applicants submit that the claims are in condition for allowance and earnestly solicit an early Notice to that effect. The Examiner is invited to contact the undersigned if any further information is required.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: /Gary R. Tanigawa/
Gary R. Tanigawa
Reg. No. 43,180

901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100